

ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 632. Omitted

#### CODIFICATION

Section, act June 25, 1910, ch. 382, § 5, 36 Stat. 676, provided that the requirements of R.S. § 3744, section 16 of Title 41, Public Contracts, should not apply to the lease of certain property or hire of vessels for use in connection with river and harbor improvements where the period of the lease or hire did not exceed three months. R.S. § 3744, which required contracts by the Secretaries of War, Navy, and Interior to be in writing and filed in the returns office of the Interior Department, was repealed by act Oct. 21, 1941, ch. 452, 55 Stat. 743.

### § 633. Protection, alteration, reconstruction, relocation, or replacement of structures and facilities; contract standards; reasonable costs

Whenever, during the construction or reconstruction of any navigation, flood control, or related water development project under the direction of the Secretary of the Army, the Chief of Engineers determines that any structure or facility owned by an agency of government and utilized in the performance of a governmental function should be protected, altered, reconstructed, relocated, or replaced to meet the requirements of navigation or flood control, or both; or to preserve the safety or integrity of such facility when its safety or usefulness is determined by the Chief of Engineers to be adversely affected or threatened by the project, the Chief of Engineers may, if he deems such action to be in the public interest, enter into a contract providing for (1) the payment from appropriations made for the construction or maintenance of such project, of the reasonable cost of replacing, relocating, or reconstructing such facility to such standard as he deems reasonable but not to exceed the minimum standard of the State or political subdivision for the same type of facility involved, except that if the existing facility exceeds the minimum standard of the State or political subdivision, the Chief of Engineers may provide a facility of comparable standard, or (2) the payment of a lump sum representing the estimated reasonable cost thereof. This section shall not be construed as modifying any existing or future requirement of local cooperation, or as indicating a policy that local interests shall not hereafter be required to assume costs of modifying such facilities. The provisions of this section may be applied to projects hereafter authorized and to those heretofore authorized but not completed as of July 3, 1958, and notwithstanding the navigation servitude vested in the United States, they may be applied to such structures or facilities occupying the beds of navigable waters of the United States.

(Pub. L. 85-500, title I, § 111, July 3, 1958, 72 Stat. 303; Pub. L. 89-298, title III, § 309, Oct. 27, 1965, 79 Stat. 1094.)

#### AMENDMENTS

1965—Pub. L. 89-298 provided for payment of the reasonable cost of replacing, relocating, or reconstructing the facility to a reasonable standard, not exceeding minimum standard of State or political subdivision for

same type of facility involved, except that if the existing facility exceeds the minimum standard of the State or political subdivision, the Chief of Engineers may provide a facility of comparable standard, in provision designated as clause (1), eliminated former provision for payment of reasonable actual cost of the remedial work, and designated existing provisions as clause (2).

## CHAPTER 13—MISSISSIPPI RIVER COMMISSION

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| <p>Sec.<br/>641.<br/>642.<br/>642a.<br/>643.<br/>644.<br/>645.<br/>646.<br/>647.<br/>648.<br/>649.<br/>650.<br/>651.<br/>652.<br/>653.<br/>653a.</p> | <p>Creation of Mississippi River Commission.<br/>Appointment of commissioners; vacancies; chairman; tenure of office.<br/>Rank, pay, and allowances of Corps of Engineers officers serving as President of Mississippi River Commission.<br/>Omitted.<br/>Secretary of commission.<br/>Repealed.<br/>Headquarters and meetings of commission.<br/>Mississippi River survey.<br/>Arkansas River; levee and bank protection.<br/>Vicksburg Harbor and Ohio River below Cache River.<br/>Mississippi River below Rock Island; levee and bank protection.<br/>Tributaries of Mississippi River below Cairo; levee and bank protection.<br/>Upper Mississippi River Management.<br/>    (a) Short title; Congressional declaration of intent.<br/>    (b) Definitions.<br/>    (c) Congressional approval of Master Plan.<br/>    (d) Cooperative effort and mutual assistance among States.<br/>    (e) Program authority.<br/>    (f) Recreational projects authority.<br/>    (g) Increases in lock capacity.<br/>    (h) Monitoring of traffic movements.<br/>    (i) Disposal of dredged material.<br/>    (j) Construction of second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri.<br/>Extension of jurisdiction of Mississippi River Commission.<br/>Extension of jurisdiction of Mississippi River Commission.</p> |
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### § 641. Creation of Mississippi River Commission

A commission is created to be called "The Mississippi River Commission", to consist of seven members.

(June 28, 1879, ch. 43, § 1, 21 Stat. 37.)

#### CODIFICATION

This was the first section of an act entitled "An act to provide for the appointment of a 'Mississippi River Commission' for the improvement of said river from the Head of the Passes near its mouth to its headwaters".

#### APPROPRIATION FOR SALARIES AND EXPENSES

Section 7 of act June 28, 1879, omitted as temporary and executed, provided for the expenditure of an appropriation of \$175,000 for salaries of the commission and necessary expenses of surveys, examinations, etc.

#### MISSOURI RIVER COMMISSION

The Missouri River Commission was created by act July 5, 1884, ch. 229, § 1, 23 Stat. 144, and repealed by act July 13, 1902, ch. 1079, § 1, 32 Stat. 367.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 642, 647, 653, 653a of this title.

**§ 642. Appointment of commissioners; vacancies; chairman; tenure of office**

The President of the United States shall, by and with the advice and consent of the Senate, appoint seven commissioners, three of whom shall be selected from the Engineer Corps of the Army, one from the National Ocean Survey, and three from civil life, two of whom shall be civil engineers. And any vacancy which may occur in the commission shall in like manner be filled by the President of the United States; and he shall designate one of the commissioners appointed from the Engineer Corps of the Army to be president of the commission. The commissioners appointed under sections 641 to 644, 646, and 647 of this title, except those appointed from civil life, shall remain in office subject to removal by the President of the United States. Each commissioner appointed from civil life after November 7, 1966, shall be appointed for a term of nine years.

(June 28, 1879, ch. 43, § 2, 21 Stat. 37; Pub. L. 89-789, title II, § 208, Nov. 7, 1966, 80 Stat. 1423.)

**AMENDMENTS**

1966—Pub. L. 89-789 inserted “, except those appointed from civil life,” and provided a nine year term for each commissioner appointed from civil life after Nov. 7, 1966.

**CHANGE OF NAME**

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

**TRANSFER OF FUNCTIONS**

Functions of all officers of Department of Commerce and functions of all officers and employees of such Department transferred, with a few exceptions, to Secretary of Commerce, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies and employees, by Reorg. Plan No. 5 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 647 of this title.

**§ 642a. Rank, pay, and allowances of Corps of Engineers officers serving as President of Mississippi River Commission**

Any officer of the Corps of Engineers who has served or shall serve four years as President of the Mississippi River Commission and who has been or shall subsequently be retired, shall, from the date of such retirement, receive the rank, pay, and allowances of a retired major general.

(June 15, 1936, ch. 548 (pt.), as added Aug. 18, 1941, ch. 377, § 3, 55 Stat. 644.)

**CODIFICATION**

Section was formerly classified to section 1026b of title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 1.

**§ 643. Omitted**

**CODIFICATION**

Section, acts June 28, 1879, ch. 43, § 2, 21 Stat. 37; June 25, 1910, ch. 382, § 1, 36 Stat. 658; Mar. 1, 1917, ch. 144, § 4, 39 Stat. 951, related to compensation of commissioners. See section 702h of this title.

**§ 644. Secretary of commission**

The Secretary of the Army may detail from the Engineer Corps of the Army of the United States an officer to act as secretary of said commission.

(June 28, 1879, ch. 43, § 6, 21 Stat. 38; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

**CHANGE OF NAME**

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 642, 647 of this title.

**§ 645. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 642**

Section, act July 25, 1912, ch. 253, § 1, 37 Stat. 218, related to traveling expenses of civilian members of commission and of Assistant Engineer of Board of Engineers for Rivers and Harbors.

**§ 646. Headquarters and meetings of commission**

The headquarters and general offices of said commission shall be located at some city or town on the Mississippi River, to be designated by the Secretary of the Army, and the meetings of the commission except such as are held on Government boats during the time of the semi-annual inspection trips of the commission shall be held at said headquarters and general offices, the times of said meetings to be fixed by the president of the commission, who shall cause due notice of such meetings to be given members of the commission and the public.

(June 28, 1879, ch. 43, § 8, as added Feb. 18, 1901, ch. 377, 31 Stat. 793; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

**CHANGE OF NAME**

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 642, 647 of this title.

**§ 647. Mississippi River survey**

*Detail of assistants; vessels; instruments*—It shall be the duty of the Mississippi River Commission to direct and complete such surveys of the Mississippi River, between the Head of the Passes near its mouth to its headwaters as may have been in progress June 28, 1879, and to make such additional surveys, examinations, and investigations, topographical, hydrographical, and hydrometrical, of said river and its tributaries, as may be deemed necessary by said commission to carry out the objects of sections 641 to 644, 646, and 647 of this title. And to enable said commission to complete such surveys, examinations, and investigations, the Secretary of the Army shall, when requested by said commission, detail from the Engineer Corps of the Army such officers and men as may be necessary, and shall place in the charge and for the use of said commission such vessel or vessels and such machinery and instruments as may be under his control and may be deemed necessary. And the Secretary of Commerce shall, when requested by said commission in like manner detail from the National Ocean Survey such officers and men as may be necessary, and shall place in the charge and for the use of said commission such vessel or vessels and such machinery and instruments as may be under his control and may be deemed necessary. And the said commission may, with the approval of the Secretary of the Army, employ such additional force and assistants, and provide, by purchase or otherwise, such vessels or boats and such instruments and means as may be deemed necessary.

*Plans; report*—It shall be the duty of said commission to take into consideration and mature such plan or plans and estimates as will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River; improve and give safety and ease to the navigation thereof; prevent destructive floods; promote and facilitate commerce, trade, and the postal service; and when so prepared and matured, to submit to the Secretary of the Army a full and detailed report of their proceedings and actions, and of such plans, with estimates of the cost thereof, for the purposes aforesaid, to be by him transmitted to Congress: *Provided*, That the commission shall report in full upon the practicability, feasibility, and probable cost of the various plans known as the jetty system, the levee system, and the outlet system, as well as upon such others as they deem necessary.

*Plans for immediate works*—The said commission may, prior to the completion of all the surveys and examinations contemplated by sections 641 to 644, 646, and 647 of this title, prepare and submit to the Secretary of the Army, plans, specifications, and estimates of costs for such immediate works as, in the judgment of said commission, may constitute a part of the general system of works herein contemplated, to be by him transmitted to Congress.

(June 28, 1879, ch. 43, §§3-5, 21 Stat. 37, 38; Feb. 14, 1903, ch. 552, §4, 32 Stat. 826; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

**CHANGE OF NAME**

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental

Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

**TRANSFER OF FUNCTIONS**

"Secretary of Commerce" substituted for "Secretary of the Treasury" in the first par. pursuant to sections 4 and 10 of act Feb. 14, 1903, which are classified to sections 1511, 1513, 1515, and 1516 of Title 15, Commerce and Trade, and which transferred Coast and Geodetic Survey, and powers and duties pertaining thereto, from Department of the Treasury to Department of Commerce.

Functions of all officers of Department of Commerce and functions of all officers and employees of such Department transferred, with a few exceptions, to Secretary of Commerce, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 5 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in Appendix to Title 5, Government Organization and Employees.

**TRIBUTARIES**

Act Mar. 3, 1881, ch. 136, 21 Stat. 474, provided in part as follows: "It shall be the duty of said commission to take into consideration, and of the Secretary of War [now Secretary of the Army] to extend operations, under their supervision, to tributaries of the Mississippi River to the extent, and not further, that may be necessary in the judgment of said commission to the perfection of the general and permanent improvement of said Mississippi River."

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 642 of this title.

**§ 648. Arkansas River; levee and bank protection**

The jurisdiction of the Mississippi River Commission is extended so as to include that part of the Arkansas River between its mouth and the intersection thereof with the division line between Lincoln and Jefferson Counties, and any funds which are appropriated by Congress for improving the Mississippi River between Head of Passes and the mouth of the Ohio River, and which may be allotted to levees and bank revetment, may be expended within the limits of said extended jurisdiction under the direction of the Secretary of the Army, in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, and upon like terms and conditions for levees and bank revetment upon any part of the Mississippi River now under the jurisdiction of said commission, and in such manner as will best promote and accomplish the purposes for which commission was created, in so far as the territory hereby added to its said jurisdiction may be involved.

(July 27, 1916, ch. 260, §1, 39 Stat. 402; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CODIFICATION

Section is from part of section 1 of the Rivers and Harbors Appropriation Act of 1916.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 649. Vicksburg Harbor and Ohio River below Cache River

The harbor at Vicksburg, Mississippi, and the Ohio River from its mouth to the mouth of the Cache River, are transferred to and placed under the control and jurisdiction of the Mississippi River Commission: *Provided*, That no part of the improvement of the Ohio River, with a view to the construction of locks and dams, shall be considered as transferred to or placed under the control and jurisdiction of the Mississippi River Commission.

(July 27, 1916, ch. 260, §1, 39 Stat. 402.)

#### CODIFICATION

Section is from part of section 1 of the Rivers and Harbors Appropriation Act of 1916.

### § 650. Mississippi River below Rock Island; levee and bank protection

Any funds which are appropriated by Congress for improving the Mississippi River between Head of Passes and the mouth of the Ohio River, and which may be allotted to levees, may be expended, under the direction of the Secretary of the Army, in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for levees upon any part of said river between Head of Passes and Rock Island, Illinois, in such manner as, in their opinion, shall best improve navigation and promote the interest of commerce at all stages of the river.

(July 27, 1916, ch. 260, §1, 39 Stat. 402; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CODIFICATION

Section is from part of section 1 of the Rivers and Harbors Appropriation Act of 1916.

#### PRIOR PROVISIONS

This provision superseded act June 4, 1906, ch. 2572, 34 Stat. 208, which contained similar provisions.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 651. Tributaries of Mississippi River below Cairo; levee and bank protection

The jurisdiction of the Mississippi River Commission is extended, for the purposes of levee protection and bank protection, to the tributaries and outlets of the Mississippi River between Cairo, Illinois, and the Head of the Passes, in so far as these tributaries and outlets are affected by the flood waters of the Mississippi River.

(Sept. 22, 1922, ch. 427, §13, 42 Stat. 1047.)

#### CODIFICATION

Section is from the Rivers and Harbors Appropriation Act for the year 1922.

### § 652. Upper Mississippi River Management

#### (a) Short title; Congressional declaration of intent

(1) This section may be cited as the "Upper Mississippi River Management Act of 1986".

(2) To ensure the coordinated development and enhancement of the Upper Mississippi River system, it is hereby declared to be the intent of Congress to recognize that system as a nationally significant ecosystem and a nationally significant commercial navigation system. Congress further recognizes that the system provides a diversity of opportunities and experiences. The system shall be administered and regulated in recognition of its several purposes.

#### (b) Definitions

For purposes of this section—

(1) the terms "Upper Mississippi River system" and "system" mean those river reaches having commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois;

(2) the term "Master Plan" means the comprehensive master plan for the management of the Upper Mississippi River system, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to Congress pursuant to Public Law 95-502;

(3) the term "GREAT I, GREAT II, and GRRM studies" means the studies entitled "GREAT Environmental Action Team—GREAT I—A Study of the Upper Mississippi River", dated September 1980, "GREAT River Environmental Action Team—GREAT II—A Study of the Upper Mississippi River", dated December 1980, and "GREAT River Resource Management Study", dated September 1982; and

(4) the term "Upper Mississippi River Basin Association" means an association of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, formed for the purposes of cooperative effort and united assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System.

#### (c) Congressional approval of Master Plan

(1) Congress hereby approves the Master Plan as a guide for future water policy on the Upper

Mississippi River system. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

(2) Omitted.

**(d) Cooperative effort and mutual assistance among States**

(1) The consent of the Congress is hereby given to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any two or more of such States, to enter into negotiations for agreements, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River system, and to establish such agencies, joint or otherwise, or designate an existing multi-State entity, as they may deem desirable for making effective such agreements. To the extent required by Article I, section 10 of the Constitution, such agreements shall become final only after ratification by an Act of Congress.

(2) The Secretary is authorized to enter into cooperative agreements with the Upper Mississippi River Basin Association or any other agency established under paragraph (1) of this subsection to promote and facilitate active State government participation in the river system management, development, and protection.

(3) For the purpose of ensuring the coordinated planning and implementation of programs authorized in subsections (e) and (h)(2) of this section, the Secretary shall enter into an inter-agency agreement with the Secretary of the Interior to provide for the direct participation of, and transfer of funds to, the Fish and Wildlife Service and any other agency or bureau of the Department of the Interior for the planning, design, implementation, and evaluation of such programs.

(4) The Upper Mississippi River Basin Association or any other agency established under paragraph (1) of this subsection is hereby designated by Congress as the caretaker of the master plan. Any changes to the master plan recommended by the Secretary shall be submitted to such association or agency for review. Such association or agency may make such comments with respect to such recommendations and offer other recommended changes to the master plan as such association or agency deems appropriate and shall transmit such comments and other recommended changes to the Secretary. The Secretary shall transmit such recommendations along with the comments and other recommended changes of such association or agency to the Congress for approval within 90 days of the receipt of such comments or recommended changes.

**(e) Program authority**

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may undertake, as identified in the master plan—

(i) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

(ii) implementation of a long-term resource monitoring, computerized data inventory and analysis, and applied research program.

(B) ADVISORY COMMITTEE.—In carrying out subparagraph (A)(i), the Secretary shall establish an independent technical advisory committee to review projects, monitoring plans, and habitat and natural resource needs assessments.

(2) REPORTS.—Not later than December 31, 2004, and not later than December 31 of every sixth year thereafter, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall submit to Congress a report that—

(A) contains an evaluation of the programs described in paragraph (1);

(B) describes the accomplishments of each of the programs;

(C) provides updates of a systemic habitat needs assessment; and

(D) identifies any needed adjustments in the authorization of the programs.

(3) For purposes of carrying out paragraph (1)(A)(i) of this subsection, there is authorized to be appropriated to the Secretary \$22,750,000 for fiscal year 1999 and each fiscal year thereafter.

(4) For purposes of carrying out paragraph (1)(A)(ii) of this subsection, there is authorized to be appropriated to the Secretary \$10,420,000 for fiscal year 1999 and each fiscal year thereafter.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1)(B) \$350,000 for each of fiscal years 1999 through 2009.

(6) TRANSFER OF AMOUNTS.—For fiscal year 1999 and each fiscal year thereafter, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer not to exceed 20 percent of the amounts appropriated to carry out clause (i) or (ii) of paragraph (1)(A) to the amounts appropriated to carry out the other of those clauses.

(7)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A)(i) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 2283(e) of this title; except that the costs of operation and maintenance of projects located on Federal lands or lands owned or operated by a State or local government shall be borne by the Federal, State, or local agency that is responsible for management activities for fish and wildlife on such lands and, in the case of any project requiring non-Federal cost sharing, the non-Federal share of the cost of the project shall be 35 percent.

(B) Notwithstanding the provisions of subsection (a)(2) of this section, the cost of implementing the activities authorized by paragraph (1)(A)(ii) of this subsection shall be allocated in accordance with the provisions of section 2283 of this title, as if such activity was required to mitigate losses to fish and wildlife.

(8) None of the funds appropriated pursuant to any authorization contained in this subsection shall be considered to be chargeable to navigation.

**(f) Recreational projects authority**

(1) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, is authorized to implement a program of recreational projects for the system substantially in accordance with the recommendations of the GREAT I, GREAT II, and GRRM studies and the master plan reports. In addition, the Secretary, in consultation with any such agency, shall, at Federal expense, conduct an assessment of the economic benefits generated by recreational activities in the system. The cost of each such project shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with title I of this Act [33 U.S.C. 2211 et seq.].

(2) For purposes of carrying out the program of recreational projects authorized in paragraph (1) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$500,000 per fiscal year for each of the first 15 fiscal years beginning after November 17, 1986.

**(g) Increases in lock capacity**

The Secretary shall, in his budget request, identify those measures developed by the Secretary, in consultation with the Secretary of Transportation and any agency established under subsection (d)(1) of this section, to be undertaken to increase the capacity of specific locks throughout the system by employing non-structural measures and making minor structural improvements.

**(h) Monitoring of traffic movements**

(1) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, shall monitor traffic movements on the system for the purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluation so as to verify the need for future capacity expansion of the system.

**(2) DETERMINATION.—**

(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall determine the need for river rehabilitation and environmental enhancement and protection based on the condition of the environment, project developments, and projected environmental impacts from implementing any proposals resulting from recommendations made under subsection (g) of this section and paragraph (1) of this subsection.

(B) REQUIREMENTS.—The Secretary shall—

- (i) complete the ongoing habitat needs assessment conducted under this paragraph not later than September 30, 2000; and
- (ii) include in each report under subsection (e)(2) of this section the most recent habitat needs assessment conducted under this paragraph.

(3) There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection.

**(i) Disposal of dredged material**

(1) The Secretary shall, as he determines feasible, dispose of dredged material from the system pursuant to the recommendations of the GREAT I, GREAT II, and GRRM studies.

(2) The Secretary shall establish and request appropriate Federal funding for a program to facilitate productive uses of dredged material. The Secretary shall work with the States which have, within their boundaries, any part of the system to identify potential users of dredged material.

**(j) Construction of second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri**

The Secretary is authorized to provide for the engineering, design, and construction of a second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri, at a total cost of \$220,000,000, with a first Federal cost of \$220,000,000. Such second lock shall be one hundred and ten feet by six hundred feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of Public Law 95-502. Section 2212 of this title shall apply to the project authorized by this subsection.

(Pub. L. 99-662, title XI, § 1103, Nov. 17, 1986, 100 Stat. 4225; Pub. L. 101-640, title IV, § 405, Nov. 28, 1990, 104 Stat. 4646; Pub. L. 102-580, title I, § 107, Oct. 31, 1992, 106 Stat. 4815; Pub. L. 106-53, title V, § 509, Aug. 17, 1999, 113 Stat. 339; Pub. L. 106-109, § 2, Nov. 24, 1999, 113 Stat. 1494.)

**REFERENCES IN TEXT**

Public Law 95-502, referred to in subsecs. (b)(2) and (j), is Pub. L. 95-502, Oct. 21, 1978, 92 Stat. 1693, as amended. Section 102 of Pub. L. 95-502 is not classified to the Code. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (f)(1), is Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4082, as amended, known as the Water Resources Development Act of 1986. Title I of this Act is classified generally to subchapter I (§ 2211 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

**CODIFICATION**

Subsec. (c)(2) of this section amended section 101 of Pub. L. 95-502, which is set out as a note under section 1962b-3 of Title 42, The Public Health and Welfare.

**AMENDMENTS**

1999—Subsec. (e). Pub. L. 106-53, § 509(a), inserted subsec. heading, added par. (1), and struck out former par. (1) which read as follows: “The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake, as identified in the master plan—

“(A) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement;

“(B) implementation of a long-term resource monitoring program; and

“(C) implementation of a computerized inventory and analysis system.”

Subsec. (e)(2). Pub. L. 106-53, § 509(b), added par. (2) and struck out former par. (2) which read as follows: “Each program referred to in paragraph (1) shall be carried out for 15 years. Before the last day of such 15-year period, the Secretary, in consultation with the Sec-

retary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall conduct an evaluation of such programs and submit a report on the results of such evaluation to Congress. Such evaluation shall determine each such program's effectiveness, strengths, and weaknesses and contain recommendations for the modification and continuance or termination of such program."

Subsec. (e)(3). Pub. L. 106-53, § 509(c)(1), substituted "(1)(A)(i)" for "(1)(A)" and "Secretary \$22,750,000 for fiscal year 1999 and each fiscal year thereafter" for "Secretary not to exceed \$8,200,000 for the first fiscal year beginning after November 17, 1986, not to exceed \$12,400,000 for the second fiscal year beginning after November 17, 1986, and not to exceed \$13,000,000 per fiscal year for each of the succeeding 13 fiscal years".

Subsec. (e)(4). Pub. L. 106-53, § 509(c)(2), substituted "(1)(A)(ii)" for "(1)(B)" and "Secretary \$10,420,000 for fiscal year 1999 and each fiscal year thereafter" for "Secretary not to exceed \$7,680,000 for the first fiscal year beginning after November 17, 1986, and not to exceed \$5,080,000 per fiscal year for each of the succeeding 14 fiscal years".

Subsec. (e)(5). Pub. L. 106-109 substituted "paragraph (1)(B)" for "paragraph (1)(A)(i)".

Pub. L. 106-53, § 509(c)(3), added par. (5) and struck out former par. (5) which read as follows: "For purposes of carrying out paragraph (1)(C) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$40,000 for the first fiscal year beginning after November 17, 1986, not to exceed \$280,000 for the second fiscal year beginning after November 17, 1986, not to exceed \$1,220,000 for the third fiscal year beginning after November 17, 1986, and not to exceed \$875,000 per fiscal year for each of the succeeding 12 fiscal years".

Subsec. (e)(6). Pub. L. 106-53, § 509(d), added par. (6) and struck out former par. (6) which contained provisions limiting transfers to 20% of appropriated amounts and setting out specific maximum monetary amounts.

Subsec. (e)(7)(A). Pub. L. 106-53, § 509(e), (g)(1)(A), substituted "(1)(A)(i)" for "(1)(A)" and inserted before period at end "and, in the case of any project requiring non-Federal cost sharing, the non-Federal share of the cost of the project shall be 35 percent".

Subsec. (e)(7)(B). Pub. L. 106-53, § 509(g)(1)(B), substituted "paragraph (1)(A)(ii)" for "paragraphs (1)(B) and (1)(C)".

Subsec. (f)(2). Pub. L. 106-53, § 509(g)(2), struck out "(A)" after "(2)" and struck out subpar. (B) which read as follows: "For purposes of carrying out the assessment of the economic benefits of recreational activities as authorized in paragraph (1) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$300,000 per fiscal year for the first and second fiscal years beginning after the computerized inventory and analysis system implemented pursuant to subsection (e)(1)(C) of this section is fully functional and \$150,000 for the third such fiscal year".

Subsec. (h)(2). Pub. L. 106-53, § 509(f), inserted par. heading, designated existing provisions as subpar. (A) and inserted heading, and added subpar. (B).

1992—Subsec. (e)(2). Pub. L. 102-580, § 107(a)(1), which directed the substitution of "15" for "ten" each place it appears, could not be executed because "ten" did not appear subsequent to amendment by Pub. L. 101-640, § 405(1). See 1990 Amendment note below.

Subsec. (e)(6). Pub. L. 102-580, § 107(a)(3), added par. (6). Former par. (6) redesignated (7).

Subsec. (e)(7). Pub. L. 102-580, § 107(a)(2), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (e)(7)(A). Pub. L. 102-580, § 107(b), added subpar. (A) and struck out former subpar. (A) which read as follows: "Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 2283 of this title."

Subsec. (e)(8). Pub. L. 102-580, § 107(a)(2), redesignated par. (7) as (8).

1990—Subsec. (e)(2). Pub. L. 101-640, § 405(1), substituted "15" for "ten" in two places.

Subsec. (e)(3). Pub. L. 101-640, § 405(2), substituted "13" for "eight".

Subsec. (e)(4). Pub. L. 101-640, § 405(3), substituted "14" for "nine".

Subsec. (e)(5). Pub. L. 101-640, § 405(4), substituted "12" for "seven".

Subsec. (f)(2)(A). Pub. L. 101-640, § 405(5), substituted "15" for "ten".

#### UPPER MISSISSIPPI RIVER BASIN SEDIMENT AND NUTRIENT STUDY

Pub. L. 106-541, title IV, § 403, Dec. 11, 2000, 114 Stat. 2634, provided that:

"(a) IN GENERAL.—In conjunction with the Secretary of Agriculture and the Secretary of the Interior, the Secretary [of the Army] shall conduct a study to—

"(1) identify and evaluate significant sources of sediment and nutrients in the upper Mississippi River basin;

"(2) quantify the processes affecting mobilization, transport, and fate of those sediments and nutrients on land and in water; and

"(3) quantify the transport of those sediments and nutrients to the upper Mississippi River and the tributaries of the upper Mississippi River.

"(b) STUDY COMPONENTS.—

"(1) COMPUTER MODELING.—In carrying out the study under this section, the Secretary shall develop computer models of the upper Mississippi River basin, at the subwatershed and basin scales, to—

"(A) identify and quantify sources of sediment and nutrients; and

"(B) examine the effectiveness of alternative management measures.

"(2) RESEARCH.—In carrying out the study under this section, the Secretary shall conduct research to improve the understanding of—

"(A) fate processes and processes affecting sediment and nutrient transport, with emphasis on nitrogen and phosphorus cycling and dynamics;

"(B) the influences on sediment and nutrient losses of soil type, slope, climate, vegetation cover, and modifications to the stream drainage network; and

"(C) river hydrodynamics, in relation to sediment and nutrient transformations, retention, and transport.

"(c) USE OF INFORMATION.—On request of a Federal agency, the Secretary may provide information for use in applying sediment and nutrient reduction programs associated with land-use improvements and land management practices.

"(d) REPORTS.—

"(1) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of this Act [Dec. 11, 2000], the Secretary shall transmit to Congress a preliminary report that outlines work being conducted on the study components described in subsection (b).

"(2) FINAL REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report describing the results of the study under this section, including any findings and recommendations of the study.

"(e) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$4,000,000 for each of fiscal years 2001 through 2005.

"(2) FEDERAL SHARE.—The Federal share of the cost of carrying out this section shall be 50 percent."

#### UPPER MISSISSIPPI RIVER COMPREHENSIVE PLAN

Pub. L. 106-53, title IV, § 459, Aug. 17, 1999, 113 Stat. 332, as amended by Pub. L. 106-541, title IV, § 404, Dec. 11, 2000, 114 Stat. 2635, provided that:

"(a) DEVELOPMENT.—The Secretary [of the Army] shall develop a plan to address water resource and re-

lated land resource problems and opportunities in the upper Mississippi and Illinois River basins, from Cairo, Illinois, to the headwaters of the Mississippi River, in the interest of systemic flood damage reduction by means of—

- “(1) structural and nonstructural flood control and floodplain management strategies;
- “(2) continued maintenance of the navigation project;
- “(3) management of bank caving and erosion;
- “(4) watershed nutrient and sediment management;
- “(5) habitat management;
- “(6) recreation needs; and
- “(7) other related purposes.

“(b) CONTENTS.—The plan under subsection (a) shall—

- “(1) contain recommendations on management plans and actions to be carried out by the responsible Federal and non-Federal entities;

- “(2) specifically address recommendations to authorize construction of a systemic flood control project for the upper Mississippi River; and

- “(3) include recommendations for Federal action where appropriate and recommendations for follow-on studies for problem areas for which data or current technology does not allow immediate solutions.

“(c) CONSULTATION AND USE OF EXISTING DATA.—In carrying out this section, the Secretary shall—

- “(1) consult with appropriate Federal and State agencies; and

- “(2) make maximum use of data in existence on the date of enactment of this Act [Aug. 17, 1999] and ongoing programs and efforts of Federal agencies and States in developing the plan under subsection (a).

“(d) COST SHARING.—

- “(1) DEVELOPMENT.—Development of the plan under subsection (a) shall be at Federal expense.

- “(2) FEASIBILITY STUDIES.—Feasibility studies resulting from development of the plan shall be subject to cost sharing under section 105 of the Water Resources Development Act of 1986 (33 U.S.C. 2215).

“(e) REPORT.—Not later than 3 years after the first date on which funds are appropriated to carry out this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes the plan under subsection (a).”

#### “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2201 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2212 of this title.

### § 653. Extension of jurisdiction of Mississippi River Commission

The jurisdiction of the Mississippi River Commission (established by the Act of June 29, 1879<sup>1</sup> (33 U.S.C. 641)) is extended to include—

- (1) Terrebonne Parish, Louisiana; and
- (2) the area bounded by the East Atchafalaya Basin Protection Levee, the Mississippi River Levee, and Bayou Lafourche and extending from Morganza, Louisiana, to the Gulf of Mexico, insofar as such area is affected by the flood waters of the Mississippi River.

(Pub. L. 102-580, title III, § 301, Oct. 31, 1992, 106 Stat. 4838.)

#### REFERENCES IN TEXT

Act of June 29, 1879 (33 U.S.C. 641), referred to in text, probably means the act of June 28, 1879, ch. 43, 21 Stat. 37, which enacted sections 641 to 644, 646, and 647 of this title.

<sup>1</sup> See References in Text note below.

### § 653a. Extension of jurisdiction of Mississippi River Commission

The jurisdiction of the Mississippi River Commission, established by section 641 of this title, is extended to include—

- (1) all of the area between the eastern side of the Bayou Lafourche Ridge from Donaldsonville, Louisiana, to the Gulf of Mexico and the west guide levee of the Mississippi River from Donaldsonville, Louisiana, to the Gulf of Mexico;

- (2) Alexander County, Illinois; and

- (3) the area in the State of Illinois from the confluence of the Mississippi and Ohio Rivers northward to the vicinity of Mississippi River mile 39.5, including the Len Small Drainage and Levee District, insofar as such area is affected by the flood waters of the Mississippi River.

(Pub. L. 104-303, title V, § 517, Oct. 12, 1996, 110 Stat. 3764.)

### CHAPTER 14—CALIFORNIA DEBRIS COMMISSION

Sec.

- 661. Creation of commission; appointment of members; vacancies; powers generally.
- 662. Organization; compensation of members; rules and regulations of procedure; traveling expenses.
- 663. Territorial jurisdiction over hydraulic mining; hydraulic mining injurious to navigation prohibited.
- 664. General duties as to plans for protection of navigation.
- 665. Survey for debris reservoirs; study of methods of mines and mining.
- 666. Noting conditions of navigable channels.
- 667. Annual reports.
- 668. “Hydraulic mining” and “mining by hydraulic process” defined.
- 669. Petition by hydraulic miners.
- 670. Surrender to United States of right to regulate debris of mine.
- 671. Petition for common dumping ground, etc.
- 672. Notice of petition for dumping grounds, etc.; hearing.
- 673. Order by commission directing method of mining, etc.; expenses of complying with order; exemption from mining taxes.
- 674. Plans for and supervision of work required by order; permit to commence mining.
- 675. Conditions precedent for commencement of mining operations.
- 676. Allotment of expenses for common dumping grounds; location of impounding works.
- 677. Limitation as to quantity of debris washed away.
- 678. Modification and revocation of permit to mine.
- 679. Violation of permit to mine; penalty.
- 680. Examination of mines; reports.
- 681. Repealed.
- 682. Malicious injury to works; injury to navigable waters by hydraulic mining; penalty.
- 683. Tax on operation of hydraulic mines; “debris fund”; advances by mine owners; storage for water and use of outlet facilities.
- 684. Cooperation by commission with State authorities.
- 685. Construction by commission of restraining works, etc.; use of debris fund.
- 686. Construction of restraining works in conjunction with State.
- 687. Use of State dredge and appliances in river and harbor improvements.